

REMARKS

Responsive to the Office Action mailed on March 4, 2009 in the above-referenced application, Applicant respectfully requests amendment of the above-identified application in the manner identified above and that the patent be granted in view of the arguments presented. No new matter has been added by this amendment.

Present Status of Application

Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Adams, III (US 4,862,533, hereinafter "Adams"). Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Owen et al (US 4,678,014, hereinafter "Owen"). Claims 2, 5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Chaffee (US 6,237,653, hereinafter "Chaffee"). Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Rey (US 5,503,617, hereinafter "Rey"). Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Adams, Owen, Chaffee, or Rey. Claims 1, 2, 7 and 8 are provisionally rejected on the ground of non-statutory obviousness as being unpatentable over claims 1, 7, 8 and 27 of copending Application No. 10/459,690.

In this paper, claim 1 is canceled. Claim 7 is amended to depend from claim 2. Thus, on entry of this amendment, claims 2, 3 and 6-8 remain in the application.

Reconsideration of this application is respectfully requested in light of the amendments and the remarks contained below.

Rejections Under 35 U.S.C. 102

Claims 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Adams. Claims 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Owen. Claims 2, 5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Chaffee. Claims 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Rey. Applicant respectfully traverses the rejections for the reasons as follow.

The rejection of a claim for anticipation under 35 U.S.C. §102 requires that the prior art reference include every element of the rejected claim. Furthermore, as stated by the Federal Circuit, the prior art reference must disclose each element of the claimed invention "arranged as in the claim." *Lindermann Maschinenfabrik GMBH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984).

Claim 2 recites an inflatable product including:

- an inflatable body;
- a socket built in the inflatable body; and
- an electric pump, including a pump body and an air outlet, connected to the socket to pump the inflatable body, wherein the pump body is wholly or partially located in the socket.

1. Claim Construction

Claims are to be construed in accordance with the intrinsic evidence comprising the claims themselves, the prosecution history, and the specification, as well as permissible extrinsic evidence such as dictionaries. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005) (*en banc*). See also MPEP 2111.01.III.

1.1. Applicant's Construction of "Pump Body"

The term "pump body" has not been specially or expressly defined in the specification. Accordingly, under MPEP 2111.01.III: "In the absence of an express intent to impart a novel meaning to the claim terms, the words are presumed to take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art."

MPEP 2111.01.III also sets forth guidelines for ascertaining this ordinary and customary meaning, in accordance with the requirements established by the Federal Circuit in *Phillips*:

III. < "PLAIN MEANING" REFERS TO THE ORDINARY AND CUSTOMARY
MEANING GIVEN TO THE TERM BY THOSE OF ORDINARY SKILL IN THE ART

....

The ordinary and customary meaning of a term may be evidenced by a variety of sources, >including "the words of the claims themselves, the remainder of the specification, the prosecution history, and extrinsic evidence concerning relevant scientific principles, the meaning of technical terms, and the state of the art."< Phillips v. AWH Corp., *>415 F.3d at 1314<, 75 USPQ2d **>at 1327.< If extrinsic reference sources, such as dictionaries, evidence more than one definition for the term, the intrinsic record must be consulted to identify which of the different possible definitions is most consistent with applicant's use of the terms. Brookhill-Wilk 1, 334 F. 3d at 1300, 67 USPQ2d at 1137; see also Renishaw PLC v. Marposs Societa" per Azioni, 158 F.3d 1243, 1250, 48 USPQ2d 1117, 1122 (Fed. Cir. 1998)

Applicant submits that, when the term is interpreted in accordance to the guidelines set forth in *Phillips* and MPEP 2111.01(III), the ordinary and customary meaning of "pump body" is the main part of the pump.

1.1.1. Claim Language

Applicant's proposed construction is wholly consistent with the claim language itself. As noted above, claims 2 recites an "electric pump" including "a pump body and an air outlet." Given this, plainly the "pump body" and the "air outlet" are each separate subparts of the "electric pump." This is clear not only from the clause "including a pump body and an air outlet," but also from the use of the word "body," which clearly refers to a portion or feature of the "electric pump," specifically, the main portion.

Other language of the claims underscores that the "pump body" and "air outlet" are distinct and separate portions or features of the "electric pump." For example, the claims expressly recite that the electric pump is "connected to the socket to pump the inflatable body." Thus, any part of the electric pump can be connected to the socket. However, the claim goes on to say that the pump body of the electric pump is "wholly or partially located in the socket." The claims do not impose any requirement that any other part of the electric pump (for example, the air outlet) be wholly or partially located in the socket.

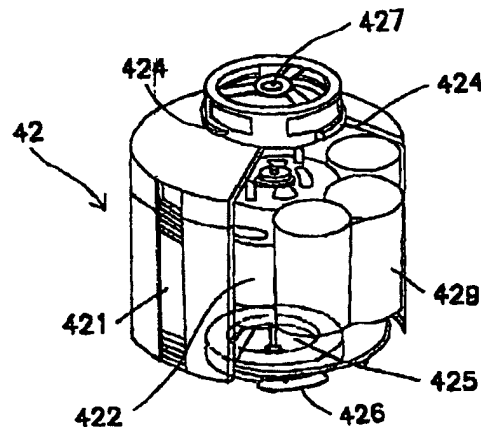
1.1.2. Dictionaries

The ordinary and customary meaning of “pump body” is the main part of the pump. See *The American Heritage Dictionary of the English Language* (2000) (defining “body” as “[t]he main or central part.”); *Webster’s Ninth New Collegiate Dictionary* (1991) (defining “body” as “[t]he main, central, or principal part.”).

1.1.3. Specification

The ordinary and customary meaning of “pump body” is also fully consistent with the specification. The straightforward distinction drawn in the claim language between the “pump body” and the “air outlet” as separate components of the “electric pump” as a whole is readily apparent from the specification.

As an example, Fig. 8B of the application is reproduced below:



As described on page 8, lines 14-16, the air outlet 425 is a separate protruding portion of the housing of the electric pump 42:

Furthermore, at the ends of the electric pump 42 are provided a protruding air inlet 427 and a protruding air outlet 425.

Thus, the "electric pump" 42 clearly encompasses an "air outlet" (in this embodiment, protruding air outlet "425"). The claims recite an "electric pump" including a "pump body" and an "air outlet." Applying the ordinary and customary meaning of "pump body," the "main part or central part" of electric pump 42 in this embodiment is quite simply the part between protruding air inlet 427 and protruding air outlet 425 shown in Fig. 8B.

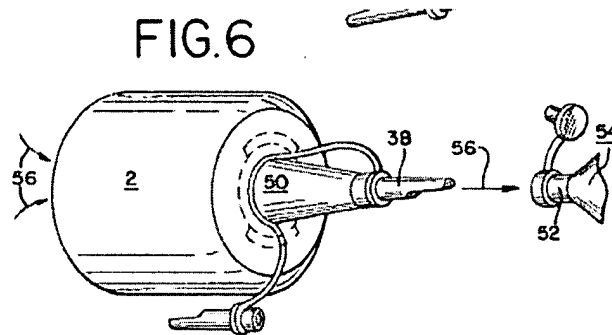
1.1.4. Prosecution History

As set forth in MPEP 2111.01(III), the "ordinary and customary meaning" of a term may also be established through reference to the prosecution history.

The prosecution history, and in particular the use of the term "pump body" by the Applicant and the Examiner during the prosecution of parent Application No. 09/738,331 (now US Patent No. 6,793,469, hereinafter "the '469 patent") further confirms Applicant's proposed construction of the term as the main part of the pump, and a part of the electric pump distinct from the "air outlet."

Several of the prior art patents cited in connection with the prosecution of the '469 patent disclose a protruding air nozzle. The claims were amended to recite that the "electric pump" includes a "pump body" and "air outlet" for the express purpose of overcoming prior art in which the air outlet, as opposed to the pump body, was the only portion of an electric pump inserted into a socket.

This prior art was Feldman (US 5,890,882), applied to reject the originally filed claims, which discloses, *inter alia*:



In the rejection, the Examiner argued that adaptor 38 was a portion of the electric pump and inflation valve 52 was a socket. Office action dated February 11, 2003, page 4.

In a response filed on July 30, 2003, Applicant amended the claims to include the requirements that (1) the electric pump "includ[es] a pump body and an air outlet," (2) "wherein the pump body is wholly or partially located in the socket." Applicant's accompanying remarks explained that since Feldman's pump body is the portion labeled "2," and this portion is not wholly or partially located in the valve 52, it does not render the amended claims unpatentable.

In a subsequent interview, the Examiner apparently agreed with this distinction (Interview Summary dated July 30, 2003, continuation sheet):

[I] informed Nelson Quintero that the amended claims required an electric pump with a pump body wholly or partially located inside a socket. Further I informed Nelson Quintero that the remark section of the amendment clearly brought out that the amended claims ***now defined the pump body, is in addition to the pump's discharge nozzle.*** [Emphasis added.]

Thus, the express distinction drawn in the claims between "pump body" and "air outlet"—as two separate features of the "electric pump," with the former being the main part of the pump—was made by amendment in the prosecution of the parent to this application. In this regard, Applicant submits that the Examiner's conclusion that the "air outlet" nozzle 38 is separate and

distinct from the "pump body" of the electric pump further evidences the ordinary and customary meaning of, and thus also Applicant's proposed constructions for, these terms.

In the same interview, the Examiner referenced Fig. 2 of US 5,267,363, also to Chaffee, which illustrates a battery powered inflation device 20 including a housing 26 connected to valve 12 of mattress 10 by screw threads 27 provided on the mouth region 28 of the housing. Fig. 2 of US 5,267,363 is reproduced below:

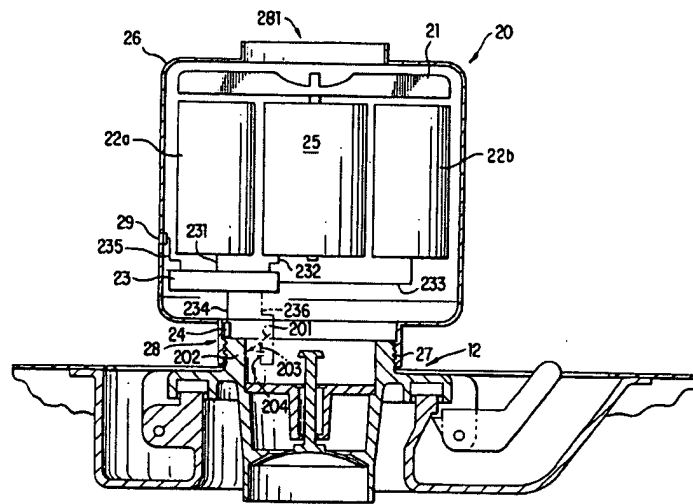
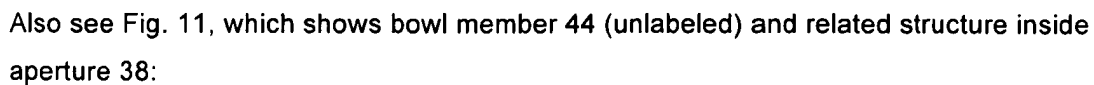
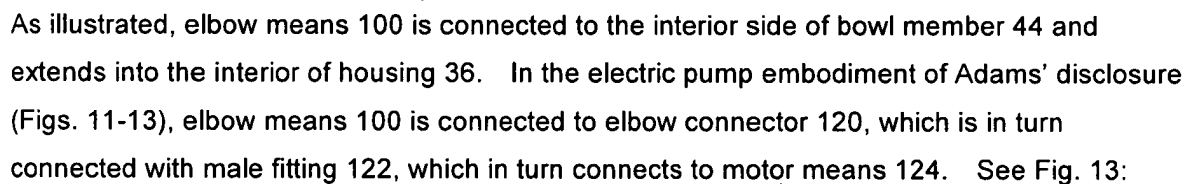


FIG. 2

As shown in the figure, the mouth region 28 of the housing forms a neck portion projecting away from the "body" of inflation device 20. In the Interview Summary, the Examiner stated: "even if Chaffee's pump had internal threads, **the pump body would not be inside the socket.**" [Emphasis added.] Thus, the Examiner concluded that the protruding "air outlet" mouth region 28 is not a part of the "pump body," *even though it is a portion of housing 26.*

Applicant therefore respectfully submits that the prosecution of the '469 patent further confirms that, in full accord with its ordinary and customary meaning, the term "pump body" excludes structures such as the protruding adaptor 38/transition structure 50 in Feldman, and the protruding neck of housing 26 in Chaffee US 5,267,363.

Adams teaches an inflatable air mattress 20 including “a totally enclosed mattress structure or housing 36 having an air intake aperture 38 and in one preferred embodiment of the invention, a cord inlet/outlet aperture 40.” Col. 3, lines 25-28. Either a bellows pump 108 (Fig. 10) or a motor means 124 (Figs. 11-13) is disposed entirely interior to housing 36, wherein an air inlet of the bellows or electric pump is connected to air intake aperture 38 via a series of air piping elements 122/120/100/44, where bowl member 44 is fitted in aperture 38. In the electric pump embodiment, a pad 126 surrounds the motor means. Adams identifies the combined structure of the motor means 124 (or bellows pump 108) and the air piping elements 122/120/100/44 as “pump means 42.”





Applicant further notes that Figs. 9, 11, and 13 clearly show that no portion of motor means 124 is wholly or partially located in the alleged “socket” 44. Thus, if motor means 124 is identified

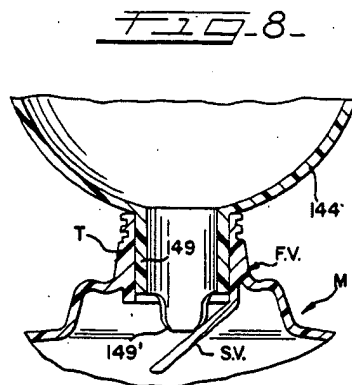
as the "electric pump" of claim 2 as per the Examiner's rejection, then Adams clearly fails to teach or suggest that a "pump body" portion or feature of the "electric pump" is wholly or partially located in a "socket," as required by claim 2, to the extent the Examiner identifies bowl member 44 as the claimed "socket."

Finally, even identifying the entire combination of pump means 42 as the claimed "electric pump," Applicant submits that it is an improper reading of Adams to label bowl member 44 as a socket. This is clearly contrary to what Adams expressly discloses. As noted, Adams identifies the *entire* combined structure of the motor means 124 (or bellows pump 108) and the air piping elements 122/120/100/44 as "pump means 42." It is improper, in the face of this teaching, to subdivide Adams' "pump means 42" and label one portion of it a "socket." The bowl member is clearly and unambiguously stated to be part of the pump means. Claim 2 clearly and unambiguously requires that the pump body portion or feature of the electric pump be wholly or partially located in a socket. Since Adams' bowl member 44 is a part of Adams' pump means, it cannot also be a socket.

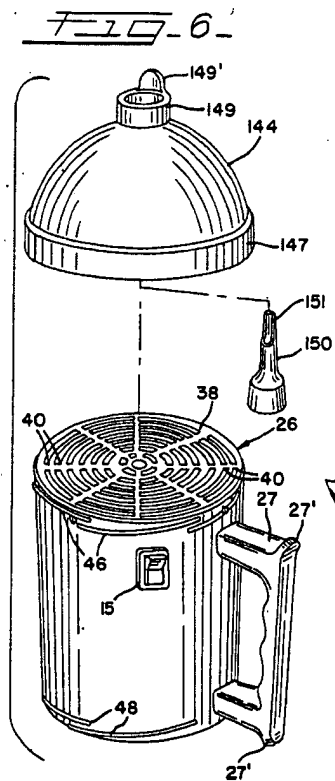
For all of the foregoing reasons, Applicant submits that Adams fails to teach all of the limitations of claim 2 and respectfully requests that the rejection of claim 2 over Adams be withdrawn. Insofar as claim 5 depends from claim 2, Applicant requests that the rejection of this claim over Adams also be withdrawn.

3. Owen

Owen teaches an inflator 10 comprising housing 26 and nozzle 144. Element 149 is described by Owen as a connector portion of nozzle 144. Fig. 8 of Owen is reproduced below:



The arrangement of Owen's inflator is illustrated in Fig. 6:



The Examiner identifies tubular portion T and inflator 10 as, respectively, the alleged "socket" and "electric pump" of claim 2. The combination of housing 26, nozzle 144, connector portion 149 and adapter 150 are identified as the alleged "pump body."

Applicant first notes that the Examiner does not identify any alleged "air outlet" in Owen. Applicant respectfully submits that the rejection is legally deficient for this reason alone.

Furthermore, as shown in Fig. 8, only connector portion 149 of nozzle 144 is received in the alleged "socket" T. On the other hand, when the adapter is used, only adapter 150 is received in an alleged "socket". See Fig. 1. Thus, the rejections depend on identifying the connector portion 149 of detachable protruding nozzle 144 (or adapter portion 150 when attached) as the alleged "pump body" of the claims.

As set forth in Section 1.1, when the claim term "pump body" is accorded its "ordinary and customary meaning" as evidenced by the claim language, dictionary definitions, the specification, and the prosecution history, it clearly refers to the main part of the "electric pump," separate and distinct from the claimed "air outlet" portion of the "electric pump," and specifically not encompassing a protruding air outlet.

As shown in Figs. 6 and 8 of Owen, connector portion 149 is an extension from detachable nozzle 144. Connector portion 149 is not a portion of the main part of the pump. It is an appendage to the pump that projects away from the main part of the pump. The same reasoning applies to adapter 150. In fact, connector portion 149/adapter 150 are essentially identical to the adaptor 38 in Feldman, which was found during the prosecution of the related '469 patent to not be part of the pump body in that reference. See above at Section 1.1.4.

The claims expressly distinguish between the "pump body" and "air outlet" of the "electric pump," and require that the "pump body," not an "air outlet" be wholly or partially located in alleged "socket" T. Applicant respectfully submits that Owen does not meet this requirement.

For all of the foregoing reasons, Applicant submits that Owen fails to teach all of the limitations of claim 2 and respectfully requests that the rejection of claim 2 over Owen be withdrawn. Insofar as claim 5 depends from claim 2, Applicant requests that the rejection of this claim over Owen also be withdrawn.

4. Chaffee

Chaffee teaches a handheld fluid moving device 100 for inflating inflatable articles. The device includes a fluid transfer orifice 18 protruding away from the main part of the pump and having projection tabs 20 extending there from. See Fig. 1:

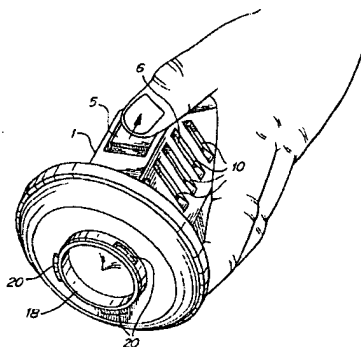
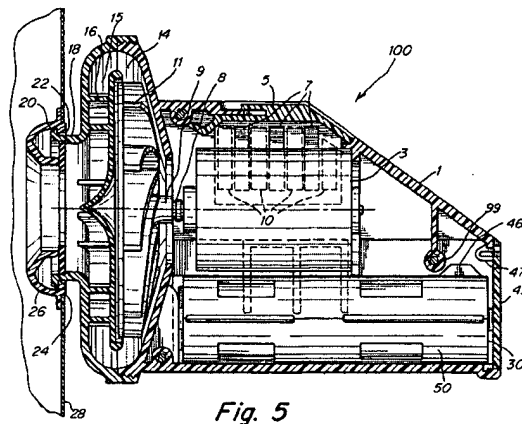


Fig. 1

When an inflatable receptacle 28 is to be inflated with the device, the handheld device is attached to a valve 26 of the inflatable receptacle and activated to move fluid into and pressurize said inflatable receptacle. Col. 6, line 38-col. 7, line 7. In operation, tabs 20 are mated with projections 22 of the inflation valve to provide an airtight connection during inflation, as illustrated in Fig. 5:



The Examiner identifies fluid moving device 100 and valve 26, respectively, as the alleged "electric pump" and "socket" of claim 2. The housing 1, including fluid transfer orifice 18 and projecting tabs 20, is identified as the alleged "pump body."

Applicant first notes that the Examiner does not identify any alleged "air outlet" in Chaffee. Applicant respectfully submits that the rejection is legally deficient for this reason alone.

Furthermore, the Examiner offers no reason or basis for saying that the entire housing in Chaffee is the "pump body." As discussed above, Applicant submits that when the claim term "pump body" is accorded its "ordinary and customary meaning" as evidenced by the claim language, dictionary definitions, the specification, and the prosecution history, it refers to the main part of the pump, which is a separate portion of the pump from the "air outlet." Fig. 5 of Chaffee fails to teach or suggest that the main part of fluid moving device 100 is wholly or partially located in the alleged "socket." To the contrary, the only portions of Chaffee's device that are located in the alleged "socket," namely a portion of protruding fluid transfer orifice 18 and the projecting tabs 20, are clearly not components of the main part of the pump. They are tiny portions at the extremity of the pump, and constitute only a small piece of the pump as a whole. The main part of Chaffee's fluid moving device 100 is located *entirely* outside of valve 26 in the Chaffee apparatus.

The claims expressly distinguish between the "pump body" and "air outlet" of the "electric pump," and require that the "pump body," not an "air outlet," be wholly or partially located in alleged "socket" 26. Applicant respectfully submits that Chaffee does not meet this requirement.

For all of the foregoing reasons, Applicant submits that Chaffee fails to teach all of the limitations of claim 2 and respectfully requests that the rejection of claim 2 over Chaffee be withdrawn. Insofar as claims 5 and 8 depend from claim 2, Applicant requests that the rejection of these claims over Chaffee also be withdrawn.

5. Rey

Rey discloses a hydro massage pillow including an inflatable plastic bag 20, a rigid framework 16, a heating pulsating assembly 18, a coupling structure 36, and a heater-pump unit 34. The heater-pump unit 34 causes water 14 to be heated up and ejected through water jets 32 of heating pulsating assembly 18 within bag 20. As shown in Fig. 1, heater-pump unit 34 is located in an opening 40 of coupling structure 36. See col. 2, line 56 to col. 3, line 24. Heater-pump unit 34 is for heating and circulating water already contained within the hydromassage pillow. See col. 3, lines 14-19. The pillow is filled with water via access port 124. The opening 40 and coupling structure 36 connect heater-pump unit 34 with the heating and pulsating assembly 18 contained within the pillow.

The Examiner identifies heating pulsating assembly 18 and coupling structure 36, respectively, as the alleged "electric pump" and "socket" of claim 2. The heater pump mechanism 44 "and inherent" is identified as the alleged "pump body."

Applicant first notes that the Examiner does not identify the claimed "air outlet" in Rey, and Applicant therefore respectfully submits that the rejection is legally deficient for this reason alone.

Furthermore, Applicant notes that Rey fails to teach or suggest "an electric pump, including a pump body and an air outlet, connected to the socket to pump the inflatable body," as required by claim 2. The specification makes clear that "pumping" means either bringing air from outside the inflatable body to inside the inflatable body (i.e., inflating), or bringing air from inside the inflatable body to outside the inflatable body (i.e., deflating). For example, page 9, lines 10-11 of the specification reads: "[t]he user pushes switch 421 of the electric pump 42 to pump outside air into the body 40 of the airbed."

The alleged "electric pump" of Rey merely heats and circulates water already contained within the hydromassage pillow. The pump does not have an "air" outlet, nor is the pump arranged "to pump the inflatable body," as required by claim 2.

For all of the foregoing reasons, Applicant submits that Rey fails to teach all of the limitations of claim 2 and respectfully requests that the rejection of claim 2 over Rey be withdrawn. Insofar as claim 5 depends from claim 2, Applicant requests that the rejection of this claim over Rey also be withdrawn.

Rejection Under 35 U.S.C. 103(a)

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Adams, Owen, Chaffee, or Rey. As noted above, it is Applicant's belief that claim 6 is allowable at least by virtue of their dependency from claim 2. For this reason, the Examiner's arguments in connection with this claim will not be addressed here. Allowance of claim 6 is respectfully requested.

Double Patenting

Claims 1, 2, 7 and 8 are provisionally rejected on the ground of non-statutory obviousness as being unpatentable over claims 1, 7, 8 and 27 of copending Application No. 10/459,690. The Examiner is advised that Application No. 10/459,690 has been abandoned by Applicant. This should not be construed as an admission with respect to the merits of the rejection.

Appl. No. 10/647,814
Examiner: Freay, Charles, Art Unit 3746
In response to the Office Action dated March 4, 2009

Date: July 6, 2009
Attorney Docket No. 10111953

Conclusion

The Applicant believes that the application is now in condition for allowance and respectfully requests so. The Commissioner is authorized to charge any additional fees that may be required or credit overpayment to Deposit Account No. **502447**.

Respectfully submitted,

/Nelson A. Quintero/

Nelson A. Quintero

Reg. No. 52,143

Customer No. 34,283

Telephone: (310) 909-8535

P136659NAQ